THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.P. No.19182 of 2005

DATE: 14-09-2005

Between:

M/s. Sri Kalyani Agro Products & Industries Limited,

Rep. by its Managing Director, Vanapalli Narayana Rao,

S/o. Subba Rao, aged about 39 years,

D.No.5-6, Tanuku Road Street, Prathipadu,

Pentapadu Mandal, West Godavari District.

.. Petitioner

AND

The Assistant Commissioner of Commercial Taxes (Int-LTU),

Eluru Division, Eluru.

.. Respondent

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

AND

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.P. No.19182 of 2005

ORDER: (Per Hon'ble Mr. Justice S. Ananda Reddy)

This Writ Petition is filed by the petitioner-dealer aggrieved by the notice, dated 17-08-2005, under which the petitioner was directed to pay a sum of Rs.1,42,474/- towards rural development cess component and agricultural market cess. The grievance of the petitioner is that the respondent has no such power to issue the impugned notice in the absence of any assessment either provisional or final as contemplated under the provisions of the A.P. Value Added Tax Act 2005, therefore sought to quash the same.

According to the learned Government Pleader, the premises of the petitioner was inspected by the authorities and during the course of inspection found certain irregularities, hence the impugned notice was issued, which can be treated as show cause notice and the petitioner can file it objections which could be considered by the respondent before enforcing the demand specified in the impugned notice.

The writ petition is therefore taken up for final disposal with the consent of both the parties.

Admittedly, there is no demand, as such, from the respondent, therefore the petitioner is not aggrieved. However, we are directing the petitioner to file its objections to the impugned notice explaining as to how it is not liable to pay the cess demanded by the respondent in the impugned notice. If the petitioner files such objections, the respondent is obligated to consider the same and pass a reasoned order and it is only thereafter if the petitioner is found to be liable to pay any amount towards tax, appropriate action can be initiated.

In the above circumstances, the writ petition is disposed of directing the petitioner to treat the impugned notice as show cause notice and file its objections within a period of three weeks from today and on filing such objections by the petitioner, the respondent is obligated to consider the same and pass appropriate orders. It is made clear that the petitioner is at liberty to raise all objections including the objections that are raised in this writ petition.

The Writ Petition is accordingly disposed of without any order as to costs.

_____

B. SUDERSHAN REDDY, J

Date:14-09-2005.

_____

S. ANANDA REDDY, J

NOTE:

Furnish C.C. of the order within three days.

(B/O)

PV